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North Dakota.

Laws, statutes, etc.

Banking laws ... 1901

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1902

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# BANKING LAWS

OF THE

STATE OF NORTH DAKOTA. (Laws Code)

1901.

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BISMARCK TRIBUNE  
STATE PRINTERS AND BINDERS  
1902

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BANKING LAWS

OF

NORTH DAKOTA.

1901

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# Laws Relating to Banking.

## CHAPTER 20.

### BANKING CORPORATIONS.

Sec. 3226. Who May Form.—Associations for carrying on the business of banking under this chapter may be formed by any number of natural persons, not less than three, two-thirds of whom shall be residents of the state. They shall enter into articles of association which shall specify in general terms the objects for which the association is formed, and may contain any other provision, not inconsistent with law which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. These articles shall be signed by the persons uniting to form the association and a copy of them shall be forwarded to the secretary of state of the state of North Dakota.

Sec. 3227. Organization Certificate. Contents.—The persons uniting to form such an organization shall under their hands make an organization certificate which shall specifically state:

1. The name assumed by such association, which name shall not be that of any other bank in the state.
2. The place where the business of discount and deposit is to be carried on.
3. The amount of the capital stock and the number of shares into which the same is to be divided.
4. The names and places of residence of the shareholders and the number of shares held by each of them.
5. The period at which such banks shall commence and terminate business.

Sec. 3228. Acknowledgment and Record.—The organization certificate shall be acknowledged before a clerk of some court of record or a notary public and shall be, altogether with the acknowledgment thereof, authenticated by the seal of such court or notary, recorded in the office of the register of deeds in the county where such bank may be established and such certificate thus authenticated shall be transmitted to the secretary of state, who shall record and carefully preserve the same in his office.

Sec. 3229. Powers.—Upon duly making and filing articles of association and an organization certificate the association shall become as from the date of the execution of the same a body cor-

porate, and as such, and in the name designated in the certificate it shall have power:

1. To adopt and use a corporate seal.
2. To have succession for a period of twenty-five years from its organization unless it is sooner dissolved according to the provisions of this chapter, or unless its franchise becomes forfeited by some violation of law.
3. To make contracts.
4. To sue and be sued.
5. To elect or appoint directors, two-thirds of whom must be residents of this state, and by its board of directors to appoint a president and vice president, who shall be members of said board; a cashier and assistant cashier and such other employees as may be required; define their duties, require bonds of them and fix the penalty hereof; dismiss such officers, or any of them, and appoint others to fill their places.
6. To prescribe by its board of directors bylaws not inconsistent with the law, regulate the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its business conducted and the privileges granted it by law exercised and enjoyed.
7. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking, by discounting and negotiating promissory notes, bills of exchange, drafts and other evidences of debt, by receiving deposits by buying and selling exchange, coin and bullion, by loaning money upon real or personal security, or both; but no association shall transact any business, except such as is incidental and necessarily preliminary to its organization, until it has been authorized by the secretary of state to commence the business of banking, and the secretary of state may withhold from any association his certificate authorizing the commencement of business, whenever he has reason to suppose that the shareholders have formed the same for any other than legitimate objects as contemplated by this chapter.

8. No such association shall have or carry among its assets, at any one time, loans dependent wholly upon real estate security, and they shall only be upon first mortgages, in an amount exceeding one-half of its capital stock and surplus, and in selling or disposing of such loans so made upon real estate security, no such association shall have power to guarantee the payment or collection thereof, and any such guaranty made in violation of this provision shall not be binding upon such association, but shall be upon the person or officer making the same.

Sec. 3230. Powers as to Real Estate.—Banking associations formed under this chapter shall have power to purchase, hold and convey real estate for the following purposes and no other:

1. Such as may be necessary for its immediate accommodation in the transaction of its business, not exceeding in value thirty per cent of its capital stock.

2. Such as shall be mortgaged to it in good faith by way of security for loans, or for debts previously contracted.

3. Such as shall be conveyed to it in good faith in satisfaction of debts previously contracted in the course of its dealings.

4. Such as it shall purchase at sales under judgments, decrees or mortgages held by the association, or shall purchase to secure debts due to it, but no such association shall hold the possession of any real estate under mortgage or the title and possession of any real estate purchased to secure any indebtedness for a longer period than ten years from the date of acquiring complete title thereto.

Sec. 3231. Capital Proportionate to Inhabitants.—Hereafter no association shall be organized under this chapter in cities, towns or villages containing one thousand inhabitants or less with a capital of less than ten thousand dollars; in cities, towns or villages of over one thousand and not exceeding one thousand five hundred inhabitants with a capital less than fifteen thousand dollars; in cities, towns or villages of over one thousand five hundred and not exceeding two thousand inhabitants with a capital less than twenty thousand dollars; in cities, towns or villages of over two thousand and not exceeding two thousand five hundred inhabitants with a capital less than thirty thousand dollars; in cities, towns or villages of over two thousand five hundred and not exceeding three thousand inhabitants with a capital less than forty thousand dollars, and in cities, towns or villages of over three thousand inhabitants with a capital less than fifty thousand dollars. At least fifty per cent of the capital stock of every association shall be paid in before it shall be authorized to commence business, the balance of which shall be paid in by installments of not less than ten per cent of the capital stock, at the end of each succeeding month from the time it is authorized to commence business. The payment of each installment shall be certified to the secretary of state, under oath of the president or cashier of the association, a copy of which shall be filed by such bank with the state examiner. For the purpose of this section the population of the city, town or village shall be determined by multiplying by four the total vote cast for member of congress at the last general election held in such city, town or village; the result shall be taken as the population of such city, town or village.

Sec. 3232. Certificate and Authorization Published.—The association shall cause the organization certificate and the official authorization of the secretary of state, issued under this chapter, to be published in some newspaper in the city or county where the association is located for at least four consecutive weeks next after the issuing thereof.

Sec. 3233. *Articles as Evidence.*—A certified copy of the articles of incorporation may be used in evidence in all courts for or against such banks or any person for or against whom such evidence is necessary, whether on civil or criminal trial.

Sec. 3234. *Delinquent Stock, How Sold.*—Whenever any shareholder or his assignee fails to pay any installment on the stock, when the same is required to be paid the directors of such association may sell the stock of the delinquent shareholder or as much thereof as is necessary to satisfy the debt at public auction, after having given three weeks' previous notice thereof in a newspaper published and in general circulation in the city or county where the association is located, to any person who will pay the highest price therefor to be not less than the amount due thereon, with the expenses of the advertisement and sale and the excess, if any, shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association and the cost of the advertisement and sale, the amount previously paid shall be forfeited to the association, and such stock shall be sold as the directors may order within six months from the time of such forfeiture.

Sec. 3235. *Shares, Value, Liability of Shareholder.*—The capital stock of each association shall be divided into shares of one hundred dollars each and be deemed personal property and transferable on the books of the association in such manner as may be prescribed by the by-laws or articles of such association; every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all rights and liabilities of prior holders of such shares and no change shall be made in the articles of association by which the rights, remedies or security of the existing creditors of the association shall be impaired.

Sec. 3236. *Capital Stock, How Increased or Reduced.*—Any association formed under this chapter may, by its articles of association, provide for an increase of its capital stock from time to time as may be deemed expedient, subject to the rules and limitations of this chapter, but no increase of capital shall be valid until the whole amount shall be paid in in cash and such payments, certified under oath by the president or cashier of such association to the secretary of state, who will give his certificate that the provisions of this section have been complied with, and specifying therein the amount of such increase of capital stock with his approval thereof and that it has been duly paid in as part of the capital thereof. Any association formed under this chapter may, by vote of its shareholders owning two-thirds of its stock, reduce its capital to any sum, not below the amount required by this chapter to authorize the formation of the association, but no such reduction shall be made until the amount of the proposed reduction is reported to the secretary of state and his approval thereof obtained in writing, and no such reduction shall

be construed as affecting the liability of shareholders for any debts of the association incurred prior to such reduction.

Sec. 3237. *How Dissolved, Duties of State Examiner.*—Any association organized under the provisions of this chapter may be dissolved by the district court of the county where its office or principal place of business is situated upon its voluntary application for that purpose. The application must be in writing and must set forth that at a meeting of the stockholders or members called for that purpose, the dissolution of the association was resolved upon by a two-thirds vote of all the stockholders or members and that all claims and demands against the association have been satisfied and discharged. The application must be signed by a majority of the board of directors or other officers having the management of the affairs of the association and must be verified in the same manner as a complaint in a civil action. A verified copy of the application shall be filed with the state examiner or such state officer as is by law authorized to examine such association within ten days after the filing of such application with the district court. If the court is satisfied that the application is in conformity with this chapter it must order the application to be filed, and that the clerk give not less than thirty nor more than fifty days' notice of the application by publication in some newspaper published in the county, and if there are none such, then by advertisement posted up in five of the principal public places in the county. At any time before the expiration of the time of publication any person may file his objections to the application. Before the final hearing and determination of the application the state examiner shall make a thorough examination of the affairs of such association and file a certified statement of such examination with the clerk of the court of the county where such application is made, which statement shall be part of the papers in the case. After the time of publication has expired the court may, upon five days' notice to the persons who have filed objections, or without further notice if no objections have been filed, proceed to hear and determine the application, and if all the statements therein made are shown to be true the court must declare the association dissolved. No stockholder or officer of such association shall be allowed to withdraw from such association, or surrender or dispose of his shares of stock after the filing or making of such application for dissolution and prior to the final determination of the case. Upon the dissolution of such association by the district court, the clerk of said court shall forthwith notify the secretary of state of such dissolution by sending a copy of the order of the court and said order and notice shall be filed by the secretary of state with the original certificate of organization. The application, notices and proof of publication, objections, if any, and declaration of dissolution constitute the judgment roll, and

from the judgment an appeal may be taken in the same manner as in other actions.

**Sec. 3238. Dividends. Surplus Fund.**—The directors of any association organized under this chapter may semi-annually declare a dividend of so much of the net profits of the association as they shall judge expedient, but each association shall before the declaration of a dividend carry one-tenth part of its net profits of the preceding half year to its surplus fund until the same shall amount to twenty per cent of its capital stock.

**Sec. 3239. Qualifications of Director.**—Every director must own in his own right at least ten shares of the capital stock of the association of which he is a director; any director who ceases to be the owner of ten shares of the stock, or who becomes in any other manner disqualified shall thereby vacate his place. Every such director, when elected or appointed shall take an oath, that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate, or willingly permit to be violated any of the provisions of this chapter and that he is the bona fide owner of the number of shares of stock required by this chapter to become a director, standing in his name on the books of the association. Such oath subscribed by the director making it and certified by the officer before whom it is taken shall at once be transmitted to the state examiner to be filed in his office.

**Sec. 3240. No Dividends, When. Bad Debts.**—No association or any member thereof shall, during the time it shall continue its banking operations, withdraw or permit to be withdrawn, either in form of dividends or otherwise any portion of its capital. If losses have at any time been sustained by such association, equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall be made by any association while it continues its banking business to an amount greater than its net profits on hand, deducting therefrom its losses and bad debts; all debts due to an association on which the interest is past due and unpaid for a period of six months unless the same are well secured and in process of collection shall be considered bad debts within the meaning of this section; but nothing in this section shall prevent the reduction of the capital of the association under section 3236.

**Sec. 3241. Rate of Interest.**—Such association may demand and receive for loans on personal security, or for notes, bills or other evidences of debt, discounted, such rate of interest as may be agreed upon, not exceeding the amount authorized by law to be contracted for, and it shall be lawful to receive the interest according to the ordinary usage of banking institutions.

**Sec. 3242. Regular and Special Reports. Penalty For Failure to Make.**—Every association shall make at least five reports each year to the state examiner, in such form as he shall pre-

scribe, exhibiting in detail, under appropriate heads, the resources and liabilities of the association at the close of business on a past day by him specified, which shall, if practicable, be the same day for which similar reports are required from national banking associations within this state, by the controller of currency of the United States. Each report must be verified by the oath of the president or the cashier, and attested as correct by at least two of the directors, and must be transmitted to the examiner within seven days after the receipt of his request for the same, and in the same form shall be published, at the expense of the association, in some newspaper of the city or county in which it is located. The state examiner shall also call for a special report from any association whenever in his judgment the same is necessary in order to obtain full and complete knowledge of its condition. Every association which fails to make and transmit any report required in pursuance of this section, shall forfeit and pay to the state a penalty of two hundred dollars for each delinquency.

**Sec. 3243. Responsibility of Shareholders.**—The shareholders of every association organized under this chapter shall be individually responsible equally and ratably and not one for the other for all contracts, debts and engagements of such association made or entered into to the extent of the amount of his stock therein at the par value thereof, in addition to the amount invested in and due on such shares.

**Sec. 3244. Loans on Shares Prohibited.**—No association shall make any loans or discounts on the security of the shares of its own stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith and stock so purchased or acquired shall within six months be sold or disposed of at public or private sale.

**Sec. 3245. Reserve Fund.**—Each association shall at all times have on hand in available funds an amount equal to twenty per cent of its deposits, one-half of which may consist of balances due to the association from good solvent banks and one-half shall consist of cash on hand. Whenever the available funds shall be below twenty per cent of its deposits such association shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange, payable at sight, nor make any dividends of its profits, until the required proportion between the aggregate amount of deposits and its lawful money reserve has been restored; and the state examiner may notify any association whose lawful money reserve shall be below the amount above required to be kept on hand to make good such reserve and if such association shall fail so to do for a period of thirty days after such notice, the state examiner may impose a penalty of not less than one hundred dollars or



more than five hundred dollars, which shall be collected in the same manner as other penalties prescribed in this chapter.

Sec. 3246. Penalties, How Recovered.—All fines and penalties heretofore provided for, to which any association organized under this chapter may become subject, shall be recovered on complaint of the state examiner, before any court having competent jurisdiction and all fines and penalties so recovered shall be paid into the state treasury.

Sec. 3247. Limit of Loan to One Concern.—The total liability to any association of any person or company, corporation or firm for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof shall not at any time exceed fifteen per cent of the capital stock of such association actually paid in, but the discount of bills of exchange drawn in good faith against actual existing values or loans upon produce in transit or in store as collateral security and the discount of commercial or business paper actually owned by the person negotiating the same shall not be considered as money borrowed.

Sec. 3248. Penalty for Violations.—Any person or persons violating the provisions of this chapter, not hereinbefore specially provided for, shall upon conviction thereof pay a fine of not less than fifty dollars nor more than five hundred dollars for each offense, to be recovered before any court having competent jurisdiction and all fines and penalties so recovered shall be paid into the state treasury.

Sec. 3249. Penalty for False Statements or Entries.—Every officer, agent or clerk of any association under this chapter, who willfully and knowingly subscribes or makes any false statements or entries in the books of such association, or knowingly subscribes or exhibits any false paper with the intent to deceive any person authorized to examine as to the condition of such association, or willfully subscribes or makes false reports shall be subject to imprisonment at hard labor in the penitentiary for such term, not less than one year nor more than ten years, as the court trying him may designate.

Sec. 3250. Insolvent Bank Not to Receive Deposits.—No banking association shall accept or receive on deposit with or without interest any money, bank bills or notes, or United States treasury notes or currency, or other notes, bills or drafts circulating as money or currency, when such banking association is insolvent.

Sec. 3251. Penalty for Violating Last Section.—If any such banking association shall receive or accept on deposit any such deposits as aforesaid when insolvent any officer, director, cashier, manager, member, party or managing party thereof, who shall knowingly receive or accept, be accessory, or permit or connive at the receiving or accepting on deposit therein or thereby of any such deposits as aforesaid shall be guilty of a felony and upon

conviction thereof shall be punished by a fine not exceeding ten thousand dollars or by imprisonment in the penitentiary not exceeding five years, or by both fine and imprisonment as aforesaid.

Sec. 3252. Banking Must be Done in Compliance With This Chapter. Penalty.—No individual, firm or corporation shall transact a banking business without complying with and organizing under the provisions of this chapter. Any person violating the provisions of this section either individually, or as an interested party in any association or corporation is guilty of a misdemeanor and on conviction thereof shall be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned in the county jail not less than ninety days or both in the discretion of the court.

Sec. 3253. Forfeiture of Franchise.—Every association organized under this chapter which shall refuse or neglect to comply with any requirement lawfully made upon it by the state examiner, pursuant to this chapter, for the period of ninety days after demand in writing is made shall be deemed to have forfeited its franchise and any failure on the part of such association to comply with or any violation of any of the provisions of this chapter shall work a forfeiture of its franchise and in either case the attorney general upon demand of the state examiner shall commence an action for the purpose of annulling the existence of said corporation.

Sec. 3254. Examination of Banks. Fees. Report to Governor.—The state examiner of North Dakota shall be ex-officio superintendent of banks; he shall as often as shall be deemed necessary and proper and at least once a year, duly examine every bank organized under this law, for which he shall charge the bank so examined a fee for such examination and turn the same into the state treasury as follows: Banks of twenty thousand dollars capital or less, a fee of twenty dollars; banks of from twenty to thirty thousand dollars capital, a fee of twenty-five dollars; banks of from thirty to forty thousand dollars capital, a fee of thirty dollars; banks of from forty thousand dollars to fifty thousand dollars capital, a fee of thirty-five dollars; banks of from fifty thousand dollars to sixty thousand dollars capital, a fee of forty dollars; banks of from sixty thousand dollars to seventy thousand dollars capital, a fee of forty-five dollars; and all banks having over seventy thousand dollars capital, a fee of fifty dollars. He shall have power to make a thorough examination into the affairs of the association, and in so doing may examine any of the officers, agents or clerks thereof, on oath, and shall make a full and detailed report in writing of the condition of the association so examined to the governor of the state; a copy of such report shall be filed in the office of the state examiner, which shall be open to all persons doing business with such association. The

state examiner or his deputies shall not be directly or indirectly interested in any association organized under this chapter or the laws of any other state or the laws of the United States.

Sec. 3255. Oath of officers. Every active officer of any bank organized under this chapter shall, before entering upon the duties of his office, take and subscribe an oath that he will so far as the duty devolves on him diligently and honestly administer the affairs of such association, and that he will not knowingly violate or willingly permit to be violated any of the provisions of this chapter. All such oaths shall be presented to the board of directors and a synopsis thereof recorded on the directors' record and then filed with the state examiner.

Sec. 3256. Bonds of officers and employees. The president and vice president, if active officers of the bank, the cashier, assistant cashier and teller shall, before entering upon their duties, furnish a good and sufficient bond to the association; the minimum amount shall not be less than twenty per cent of the capital stock of the association, and may be greater if required by the board of directors. Other employees shall give bonds whenever required by the board of directors; all such bonds to be approved by the board, a record of which shall be made on the minutes of the meeting of said board and then filed with the state examiner. Stockholders of such banks shall not be eligible as bondsmen for such officers.

Sec. 3257. Examination by directors. Report. It shall be the duty of the board of directors in February and in August of each year to proceed and make a careful and thorough examination of all the assets of the bank, examine stock, check certificates of deposits and cashier's checks, count cash, examine loans and discounts of every nature with the securities and collaterals belonging thereto; compare the aggregate with the records and examine the records and make a complete report of such examination with suggestions and criticisms, if in its judgment such are necessary, which report shall be spread on the records of the bank the same as of a regular meeting of the board of directors and shall be examined by the state examiner when making his regular annual examination of the bank.

Sec. 3258. Action against insolvent banks. The state examiner, on becoming satisfied of the insolvency of any bank organized under the provisions of this chapter, after making an examination of the same, shall forthwith take charge of such insolvent bank, pending the action of the court. Immediately upon taking charge, the state examiner shall prepare and submit a statement of its condition to the attorney general, who shall thereupon institute an action against the corporation in accordance with the provisions of chapter twenty-six of the code of civil procedure.

**END OF  
TITLE**